



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० ४६]

नई दिल्ली, शुक्रवार, अगस्त २५, २००६ / भाद्र ३, १९२८

No. 46]

NEW DELHI, FRIDAY, AUGUST 25, 2006 / BHADRA 3, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 25th August, 2006:—

I

BILL NO. LIX OF 2006

A Bill to provide for establishment of a Voluntary Organizations Regulatory Authority for registration and regulation of voluntary organizations in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Voluntary Organizations Regulatory Authority Act, 2006.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force immediately.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in all other cases the Central Government;

(b) "authority" means the Voluntary Organizations Regulatory Authority established under section 3;

(c) "fund" means Voluntary Organizations Assistance Fund established under section 8.

(d) "prescribed" means prescribed by rules made under this Act;

(e) "Voluntary Organization" means any organization or institution or society whether incorporated or registered or not, which is engaged in any of the following activities without any commercial gain:—

(i) Promoting education including adult education;

(ii) Involved in relief operations during natural calamities like drought, floods, cyclones, earthquakes, storms, squalls;

(iii) Organizing camps for free distribution of medicines, promoting health awareness among general public or charitable dispensaries;

(iv) Providing assistance to orphaned, vagabond and street children and running homes for these children;

(v) Running schools for orphaned and destitute children and providing them with all necessary facilities;

(vi) Helping destitute and old women and providing them shelter;

(vii) Helping aged and old persons and providing them shelter;

(viii) creating awareness among the public regarding:—

(a) pollution hazards;

(b) family planning;

(c) diseases like AIDS, cancer, etc.;

(d) social evils like dowry, sati, child marriage, etc.

(ix) Any other activity so declared by the appropriate Government.

Establishment
and
composition
of Voluntary
Organization
Regulatory
Authority.

3. (1) The Central Government shall, by notification in the Official Gazette, establish an authority to be known as Voluntary Organizations Regulatory Authority for the purpose of performing functions assigned under this Act.

(2) The authority shall consist of—

(i) a Chairman who shall have experience in social service for a period of not less than twenty years, to be appointed by the Central Government;

(ii) four other members who shall have experience in social service for a period of not less than ten years, to be nominated by Central Government on rotation basis from States;

(3) The Chairman and other members shall be appointed for a term of five years.

Offices of
the
authority.

4. (1) The headquarter of the authority shall be at Lucknow.

(2) The authority shall establish offices in the capital city of every State and Union territory.

(3) The Central Government shall provide such number of officers and staff to the authority as may be necessary to enable it to discharge its functions.

Functions of
the authority.

5. The authority shall perform the following functions:—

(a) Register and regulate the functioning of voluntary organisations in the country;

(b) Record the grants that may be sanctioned to any voluntary organization;

(c) Monitor the activities of voluntary organisations;

(d) Impose restrictions on the number of voluntary organisations working in any district or State in a particular field;

(e) Hear complaints about the voluntary organisations and make recommendations to Government;

(f) Take *suo motu* the working of any voluntary organization for examination;

(g) Any other function assigned to it by the Central Government.

6. (1) Every voluntary organisation shall within a period of three months from the date of commencement of this Act, apply to the authority for registration with such particulars and in such manner as may be prescribed.

Registration of voluntary organisations.

(2) No new Voluntary Organisation shall be permitted to undertake its activities unless registered under this Act.

7. (1) The authority shall, within one month from the date of receipt of an application from a voluntary organization, declare whether the application for registration has been accepted or rejected and in case the application has been rejected, the reasons in this regard shall be recorded.

Declaration regarding acceptance of rejection of registration.

(2) On accepting the application the authority shall issue a certificate in this regard.

8. (1) The Central Government shall constitute a Voluntary Organizations Welfare Fund for the purpose of making grants to voluntary organisations.

Voluntary Organisation Welfare Fund.

(2) The Central Government and all the State Governments shall contribute to the fund in such ratio as may be prescribed.

9. (1) The Central Government shall administer the fund in such a manner as may be prescribed.

Administering funds and grant to each voluntary organisation by Central Government.

(2) The Central Government shall make a grant to each voluntary organization every year or at such intervals as it may determine.

(3) Before making a grant to any voluntary organisation under sub-section (2), the Central Government shall consult the authority.

10. Every voluntary organization which is in receipt of grant from the Central Government shall send an annual report to the authority about its activities during the year and a statement of accounts showing receipts and expenditure of the organization in such form and in such manner as may be prescribed.

Annual Report.

11. The Central Government may, after due consultation with authority, reduce the amount of grant or withhold the total amount of grant payable to a voluntary organization for such period as it may determine.

Power to reduce or withhold the grant.

12. (1) If on a complaint and inquiry, it is found that a voluntary organization does not utilize the money for the purpose for which it was granted or involves itself in any activities other than for which it was formed, the authority may take such action against the voluntary organization as it may deem fit including the cancellation of registration.

Cancellation of Registration.

(2) The authority may also *suo motu* institute an inquiry against any voluntary organization in such manner as may be prescribed.

13. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it be necessary or expedient for removing the difficulty:

Overriding effect of the Act.

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Savings.

14. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law for the time being in force relating to voluntary organizations.

Powers to
make rules.

15. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Voluntary organisations today are the part and parcel of the society. These organizations have come a long way in contributing in the development of the society and the nation as a whole. They supplement the activities of the government in various fields and at times of crisis and natural calamities, voluntary organizations come to relief and rescue of persons affected by acts of God. These voluntary organizations are providing education, health care, running homes for orphaned children, old age homes, providing free food and medicines to the needy people. Many of the voluntary organisations mainly depend upon funds received through contributions and donations which are not enough to meet their expenditure. Therefore, most of them lack funds to carry out their activities.

There are about 10 lakh voluntary organizations registered in India of which about 17,145 voluntary organizations are receiving foreign funds. As the competition between these voluntary organisations is increasing, they are choosing to bend rules and by pass law to survive.

Recently, irregularities have come to the notice wherein many voluntary organisations have violated the Foreign Exchange Management Act. They were found to be having Swiss bank accounts and foreign money across continents. In 2005, the Ministry of Home Affairs has blacklisted 8673 Non-governmental organisations for violation of the Foreign Exchange Management Act. Further, there are cases of nepotism in various Government Departments in the distribution of grants. It has been reported that in many Departments, the persons giving the grants are the same who indirectly own voluntary organizations. Therefore, it has become very difficult to receive grants since the genuine organizations find it difficult to appease so many persons for receiving the much desired grants for benevolent purposes.

The Governments at Centre and State levels are providing them money, but there is no monitoring as to how these funds are used. As a result, many voluntary organisations, run by unscrupulous elements, are siphoning of a lot of government money which is denied to genuine voluntary organisations. Many organizations do not have enough infrastructure and means to perform their activities but they seek grant only to be misused.

The whole system of the working of voluntary organisations is not regulated. Therefore, there has to be a centralized system of registration and regulation of voluntary organizations so that their efforts could contribute to the nation building in an effective way.

The Bill seeks to achieve the above objectives.

KALRAJ MISHRA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a Voluntary Organizations Regulatory Authority. Clause 4 provides for the setting up of offices of the authority in every State and UT. Clause 8 provides for the constitution of a Voluntary Organizations Welfare Fund to which both Central and State Governments will contribute. Clause 9 provides for making grants to voluntary organizations every year. The Bill, therefore, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees five hundred crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

The rules will relate to details only. The delegation of legislative power is of normal character.

II

BILL NO. LVIII OF 2006

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

Short title and
commencement.

(2) It shall come into force with immediate effect.

2. In article 145 of the Constitution,—

Amendment of
article 145.

(i) in clause (1), after sub-clause (a), the following sub-clauses shall be inserted, namely:—

“(aa) rules as to the fixation of time limit for oral arguments in various categories of cases coming before it for oral arguments keeping in view the nature and facts of the cases;”

“(aaa) rules providing for written arguments to supplement the oral arguments, as and when desired, in various categories of cases coming before it for oral arguments keeping in view the nature and facts of the cases.”

(ii) after clause (1), the following clause shall be inserted, namely:—

“(1A) The time-limit fixed by the Supreme Court by rules for oral arguments shall not be extended except in exceptional circumstance for reasons to be recorded in writing by the Chief Justice of India.”

Amendment
of article 227.

3. In article 227 of the Constitution,—

(i) in clause (2), after sub-clause (b), the following clauses shall be inserted, namely:—

“(bb) fix the time-limit for oral arguments in various categories of cases coming before it and in various tribunals/district courts under its jurisdiction for oral arguments keeping in view the nature and facts of the cases;”

“(bbb) permit written arguments to supplement the oral arguments in various categories of cases coming before it and in various tribunals/district courts under its jurisdiction for oral arguments keeping in view the nature and facts of the cases as and when desired.”

(ii) after clause (2), the following clause shall be inserted, namely:—

“(2A) The time-limit fixed by the High Court for oral arguments shall not be extended except in exceptional circumstance for reasons to be recorded in writing by the Chief Justice of High Court.”

STATEMENT OF OBJECTS AND REASONS

There is a popular saying in our country that "God please save us from the affairs of court, hospital and police". Why the people are afraid of with the affairs of the courts when the judiciary of our country is recognized and respected throughout the world for its independence and effectiveness? No other judicial system in the world is as independent as is ours. Along with this well respected judiciary, there are a few facts which needs to be looked at, *i.e.*, around forty thousand cases are pending in the Supreme Court, more than forty lakh cases are pending in twenty-one High Courts and over 2.5 crore cases are pending in subordinate courts. Although there are many reasons of this pendency but one of the foremost reasons is the unlimited and unending oral arguments in the courts. No doubt, the oral arguments are important aspect of legal system the world over but in our country, it has assumed alarming proportions. Many a time, these arguments are irrelevant and unnecessary. Generally, the tool of oral arguments is used to buy time or rather waste the time of the otherwise overburdened courts. Lawyers go on quoting various judgments during oral arguments that may not be relevant to the given case, which ultimately leads to the harassment of the other party in view of the prolong hearing. At times, the judges can object to lengthy and irrelevant oral arguments but generally judges do not object to such arguments due to lack of time limit for a particular case.

There has to be a time limit on oral arguments in each case which can be fixed by the courts depending upon the nature and facts of the case. In many countries, there are provisions for limiting the oral arguments in court cases.

The importance of the issue was considered in our draft Constitution, and a provision was proposed for time limit on oral arguments, but somehow that didn't find its place in the Constitution. The need to curtail the argument time has been expressed time and again. If a time limit is fixed by courts it will save a lot of time of courts and will provide an expeditious and inexpensive justice to the people at large.

The Bill seeks to achieve the above objectives.

KALRAJ MISHRA

III

BILL No. LXXV OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title
and
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

(2) It shall come into force with immediate effect.

Insertion of
new article
371J.

2. After article 371(I) of the Constitution, the following article shall be inserted, namely:—

Special
provisions with
respect to the
Hyderabad
Karnataka
area
consisting of
Gulbarga,
Bidar,
Raichur,
Koppal and
Bellary
Districts of the
State of
Karnataka.

“371J. (1) The President may by order made with respect to the Hyderabad Karnataka area of the State of Karnataka provide, having regard to the requirements of that area as a whole, for equitable opportunities and facilities for the people belonging to different parts of the State, in the matter of public employment and in the matter of education, and different provisions may be made for various parts of the State.

(2) An order made under Clause (1) may, in particular:—

(a) require the State Government to organize any class or classes of posts in a civil service of, any class or classes of civil posts under, the State into different local cadres for different parts of the State and allot in accordance with such principles and procedure as may be specified in the order the persons holding such posts to the local cadres so organized;

(b) specify the Hyderabad Karnataka area of the State which shall be regarded as the local area—

(i) for direct recruitment to posts in any local cadre (whether organized in pursuance of an order under this article or constituted otherwise) under the State Government;

(ii) for direct recruitment to posts in any cadre under any local authority within the State; and

(iii) for the purposes of admission to any University within the State or to any other educational institution which is subject to the control of the State Government;

(c) specify the extent to which, the manner in which and the conditions subject to which preference or reservations shall be given or made—

(i) in the matter of direct recruitment to posts in any such cadre referred to in sub-clause (b) as may be specified in this behalf in the order

(ii) in the matter of admission to any such university or other educational institutions referred to in sub-clause (b) as may be specified in this behalf in the orders to or in favour of candidates who have resided or studied for any period specified in the order in the local area in respect of such cadre, University or other educational institutions, as the case may be.

(d) and to provide for required infrastructure for overall development of the Hyderabad Karnataka area (e.g. Industries, education, roads, hospitals, employment, irrigation etc.)”

STATEMENT OF OBJECTS AND REASONS

In order to overcome the imbalances prevailing in the field of employment and education among various regions of the State, the Government of Karnataka have proposed for regional reservation with a view to make available equitable opportunities and facilities to the people of different parts of the State by amending article 371 of the Constitution. Hyderabad Karnataka area consisting of Gulbarga, Bidar, Raichur, Koppal, a new district and Bellary have been included in Hyderabad Karnataka region. Gulbarga has been considered as divisional Headquarters since last 50 years. Development of these districts has been far behind old Mysore and Bombay Karnataka region. This Hyderabad Karnataka region is the most backward area in State of Karnataka, as far as development of industries, education, roads, hospitals, employment, irrigation etc. is concerned.

The matter was raised on many occasions in both the Houses of Karnataka Legislature and the members have unanimously demanded that the Central Government may have to be persuaded to bring the proposed amendment to the Constitution.

The Bill seeks to achieve the above objectives.

K.B. SHANAPPA

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to insert a new article 371J in the Constitution of India to provide for special provisions with respect to Hyderabad Karnataka area.

Sub-clause (1) of clause 2 provides for equitable opportunities and facilities for the people belonging to different parts of the State in the matter of public employment and education. Para (d) of sub-clause 2 of clause (2) provides for required infrastructure for overall development of Hyderabad Karnataka area.

The Bill, therefore, if enacted would involve an estimated annual recurring expenditure of about rupees one thousand crore from the Consolidated Fund of India.

A non-recurring expenditure of rupees five thousand crore from the Consolidated Fund of India shall also be involved.

IV

BILL NO. LXXVII OF 2006

A Bill to provide for abolition of child labour and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Abolition of Child Labour Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in case of a State, the Government of the State and in other cases, the Central Government;

(b) "child" means a boy or girl who has not attained the age of eighteen years of age;

(c) "work" means and includes any domestic work for gain, work in a factory or industrial establishment, whether hazardous or not, agriculture or any other work which results in physical strain to the child.

3. Child labour in any form of employment is hereby abolished.

Abolition of
child labour.

Child not to
be employed.

4. No person, including a parent or guardian shall employ any child in any employment.

5. No person, including a parent or guardian shall deprive any child from access to education by employing the child in any work.

Penalty.

6. If any person employs any child for any work,—

(i) if he is the parent or guardian of the child, he shall be punished with a fine of rupees five thousand; and

(ii) if he is in charge of any factory, establishment or organisation, he shall be punished with imprisonment for a term which may extend up to seven years and a fine of rupees fifty thousand.

Savings.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force relating to child labour.

Power to
make rules.

8. The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of the Act.

STATEMENT OF OBJECTS AND REASONS

Despite prohibition imposed by the Constitution on employment of children below fourteen years of age in any hazardous employment, millions of children are forced by their parents to work in different establishments, including as domestic help. They are not sent to school for education due to stark poverty. Sometimes they are engaged in such work as may affect their health. There are many legislations in force but nothing has worked to ameliorate conditions of children engaged in employment. It is also felt that there are no stringent penal provisions to discourage parents/guardians as well as those who force or engage children in employment.

It is therefore proposed to bring a deterrent legislation to abolish child labour.

Hence this Bill.

C. PERUMAL

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of normal character.

V

BILL NO. LXXVIII OF 2006

A Bill to provide for welfare of cinema artists and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Cinema Artists' Welfare Act, 2006.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "artist" means any person engaged in cinema industry who performs any activity including dancing, singing, production and distribution of films and includes any person who does perform any work connected with production, editing and distribution of films and also includes casual workers employed from time to time;

(b) "cinema" includes a feature film or a documentary or a short film;

(c) "fund" means Cinema Artist Welfare Fund;

(d) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government shall set up a Fund to be known as Cinema Artist Welfare Fund.

Establishment
of Cinema
Artist Welfare
Fund.

(2) The Fund shall consist of contribution made by the Central Government, film producers, and artists connected with cinema industry and donations received from individuals or organizations.

(3) The Fund shall be administered by a Board consisting of—

(i) The Minister of Information and Broadcasting as *ex-officio* Chairman;

(ii) representatives of film producer, as members;

(iii) representatives of cinema artists as members.

4. The terms and conditions of service of members of the Board and their member shall be such as may be prescribed.

5. The Board shall, at the end of every financial year, prepare an annual statement showing its receipts and expenditure along with the activities executed during that year and a copy thereof shall be forwarded to the Central Government.

Annual
Report.

6. The Fund shall be utilized for giving the financial assistance to artists for following purposes:

Utilization of
fund.

(i) compensation in case of death or accident while performing the job;

(ii) the premium for Life insurance;

(iii) old age pension;

(iv) disability assistance;

(v) free health care including for their family members;

(vi) subsidized housing facilities.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

Film industry employs large number of cine artists for performing various activities such as, dancing, singing, stunts, production, etc. Artists engaged in film industry are unorganized lot. They entertain people with great risk involved in their work. Accidents of artists during shootings are common and leave them with either permanent or partial disability. Many artists even have to loose their lives during their performance. In the name of rehabilitation, they get a meager amount as compensation. Moreover, they do not have proper facilities like health care, education, etc. for their children.

It is an irony that today, the entertainment industry generates considerable revenue for the country but nothing substantial is being done for the persons who are responsible for running this industry successfully.

Therefore, keeping this in view, it is proposed to set up a Fund for the welfare of persons engaged in cinema industry.

Hence this Bill.

C. PERUMAL

FINANCIAL MEMORANDUM

Clause 3, of the Bill provides for setting up a Fund for the welfare of artists engaged in cinema industry. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees five hundred crore per annum.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

VI

BILL NO. LXXIX OF 2006

A Bill further to amend the Indian Nursing Council Act, 1947.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Nursing Council (Amendment) Act, 2006.

Short title,
and
commencement.

(2) It shall come into force at once.

2. In the Schedule to the Indian Nursing Council Act, 1947, in Part I, after entry 48, the following entry shall be inserted, namely:—

Amendment
of the
Schedule to
Act 48 of
1947.

“49. Any institution imparting nursing education which is recognized by any State Government or the Central Government, as the case may be”.

STATEMENT OF OBJECTS AND REASONS

In our country, many private recognized institutions are imparting nursing education. Since the Government is not able to meet the demands of the students to pursue nursing education, the private institutions have mushroomed. But the students who qualify from recognized private nursing colleges are neither eligible for registration in the Employment Exchanges nor given Employment in Government hospitals.

Therefore, in order to remove this anomaly, it is proposed to make nurses who have certificate, Diplomas or Degrees from recognized private nursing institutions can also become eligible for employment in Government hospitals.

Hence this Bill.

C. PERUMAL

YOGENDRA NARAIN,
Secretary-General.